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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/714,711	11/17/2000	Hamilton Dorest		4821

7590 05/11/2005
Kenneth D Baugh
2413 Blodgett
Houston, TX 77004

EXAMINER

JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/714,711

Applicant(s)

DOREST, HAMILTON

Examiner

Blair M. Johnson

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-10 and 13-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-10 and 13-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Specification

The amendment filed 6/23/03 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. Applicant's new specification is considered a substitute specification. As such, it contains new matter and will not be entered in accordance with 37 CFR 1.125(b).

Applicant is required to cancel the new matter in the reply to this Office Action.

The use of the trademark Plexiglass has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 112

Claims 19-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The indication that claims 19-34 are "withdrawn" is not acceptable given their status. Applicant has stated what he "may" do with regarding the substitute specification

and claims 19-34 but they are still part of the present application. Claims 19-34 are considered to be "previously presented".

As such, claims 19-34 contain new matter and further are ambiguous since the substitute specification from which they find basis has not been entered. For example, the "horizontally extending members having a downward pitch and apertures formed thereon" and the "coupling members" constitute new matter and are not disclosed in the original specification.

Claim Rejections - 35 USC § 103

Claims 1,2,5-10 and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruby et al in view of Kessler.

See base support member 12,14,16,18, which comprise first horizontal and vertical members 60,78, and second horizontal and vertical members 74 that extend around the perimeter of the frame/base member; tracking members, which are the elements which define tracks 82,84,118,120, and are aligned in "portions" of the opening; transparent members 20,30, each coupled in respective tracking member. Both transparent members may be slid to open and close the window. While Ruby et al provides a nailing fin, Fig. 9, as part of his base support member, it is not disclosed if the nailing fin has spaced apertures. However, such is well known in the art as illustrated by Kessler at 13 and therefore, providing apertures for the fasteners which go through the nailing fin would have been well within the purview of one of ordinary skill in the art, especially in light of this teaching by Kessler so as to provide predetermined fastener locations.

Regarding claim 2, the upper frame member has portions which "cover" the transparent members.

The use of Plexiglass™ in windows is well known in the art and it would have been obvious to replace the glass of Ruby et al with plexiglass so as to render the window more damage resistant and lighter in weight.

Response to Arguments

Applicant's arguments filed 12/8/03 have been fully considered but they are not persuasive.

Applicant has not adequately addressed the new matter situation, as discussed above.

The elements of the claims that are alleged to be missing from Ruby et al are clearly present. The invention, claimed as well as disclosed, is merely a single hung (only one moving sash) sliding window. Ruby et al is a double hung (both sashes move) sliding window that reads on the claims since the claims do not recite that one of the sashes is fixed. The frame, or base member, clearly have a frame portion located in a vertical plane, with the nailing fin, or flange, and a frame portion perpendicular thereto which has the tracks that support the sashes.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

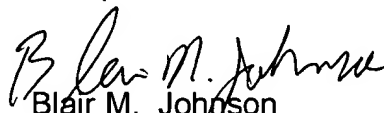
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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (571) 272-6830. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6768. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Blair M. Johnson
Primary Examiner
Art Unit 3634

BMJ
5/6/05